

MUDGE ROSE GUTHRIE ALEXANDER & FERDON
180 MAIDEN LANE
NEW YORK, N. Y. 10038
212-810-7000

818 K STREET, N. W.
WASHINGTON, D. C. 200
202-428-0356

12, RUE DE LA PAI
75002 PARIS, FRAN
201-87-71

SUITE 2020
333 SOUTH GRAND AV
LOS ANGELES, CALIF 9
213-613-1112

CABLE ADDRESS
BALTUCHINS - NEW Y
TELEX: WU 70372
WU 12700

TELECOPIER
212-810-7024

STANFORD S. LADNER
HAROLD S. LEVISON
JOHN C. LILLIE
EDWARD W. LONG
CARL F. LYON, JR.
WILLIAM A. MADISON
ARTHUR J. MALONE
FRANCIS S. MALONEY
JAMES S. MARLIN
GEORGE J. MARTIN, JR.
ARTHUR P. McMANUS, JR.
MITCHELL E. MENAKER
J. ROGER MENTZ
RICHARD M. NICHOLLS
DOUGLAS M. PARKER
ROBERT E. PEDUZZI
JED S. RAROFF
THOMAS C. RUSSELL
NORMAN H. SEGAL
LAURENCE V. SENN, JR.
HARRY S. SILLECK, JR.
LARRY D. SOBEL
ARNOLD H. TRACY
DAVID A. VAUGHAN
WILLIAM N. WALKER
DONALD J. ZOELLER
COUNSEL
JOHN M. ALEXANDER
RANDOLPH M. GUTHRIE
FRANKLIN B. UNGOIN, JR.
MILTON C. ROSE
M. RIDGELY BULLOCK
OTTO S. STOLZ

BY HAND

Honorable Robert W. Sweet
United States District Judge
United States District Court
Southern District of New York
Foley Square
New York, New York 10007

Re: Universal City Studios, Inc. v.
Nintendo Co. Ltd. and Nintendo of
America, Inc., 82 Civ. 4259 (RWS)

Dear Judge Sweet:

We have received a copy of Universal's November 16, 1984 letter to you requesting that you grant Universal permission to move for summary judgment and set a briefing schedule for their motion. Mr. Kirby is out of the office, and I am therefore responding to Universal's letter on his behalf after consulting with him over the telephone in order to place Nintendo's position before the Court as soon as possible.

We are surprised that Universal would make such a request at this late date, not only because their motion would be meritless, but also because we are presently engaged in a major discovery dispute with Universal over their selective invocation of the attorney/client privilege whereby they have withheld documents and testimony which we believe will further support Nintendo's position in this litigation that Universal has acted in bad faith. Under the circumstances, we respectfully request that you deny Universal's request for permission to make this untimely motion.

We have been attempting to resolve our discovery dispute over the attorney/client privilege with Universal since it came to a head in a recent deposition wherein Universal repeatedly asserted a privilege to block highly relevant testimony and in their latest supplemental document productions in which it became apparent that Universal was selectively producing documents. Our efforts are

A001863

DEFENDANT'S
EXHIBIT

Honorable Robert W. Sweet

-2-

November 19, 1984

continuing, and we expect to deliver a further letter to counsel for Universal tomorrow responding to their latest refusal to turn over documents as to which they have clearly waived any semblance of privilege. We hope that we will not have to burden the Court with this matter. The Court has set November 28, 1984 as the date on which the parties are to submit all motions and their pretrial order. If Universal continues to refuse to comply with its discovery obligations, we may have to request that the Court adjourn the November 28 date so that we can bring this dispute before the Court in advance of trial.

Respectfully yours,

Thomas G. Gallatin, Jr.

TGG/mw

cc: Douglas C. Fairhurst, Esq.

A001864